From: cholmer@ciholmer.com@inetgw
To: Microsoft ATR
Date: 1/24/02 9:00am
Subject: Microsoft Settlement

After reading over much of the documentation on the proposed Microsoft
Settlement, I find many disturbing issues, loopholes, and contradictions.
I strongly urge the DOJ to have a formal and public review of the entire
document. Here are some (definitely not all) of the issues I had while
reading the documents.

For example, the definitions used in some of the wording in Part VI of the
PFJ differ quite radically from the Findings of Fact and how those terms
are used in every day language in technical circles. Being a technology
agnostic developer, I find these issues quite disturbing.

For example, the Findings of Fact define 'Application Programming
Interface' ('API') to mean the interfaces between application programs and
the operating system. This is fairly accurate, but could also include how
other programs interact with that program. However the PFJ's Definition A
defines it to mean only the interfaces between Microsoft Middleware and
Microsoft Windows, excluding Windows APIs used by other application
programs. This is crazy, nuts, and way too contorted. A frequently used
and widely understood term such as API should either remain the same as
the Findings of Fact or be closer to the real world or public definitions
of 'API'. For example www.techtarget.com defines API as:

"An application program interface (API - and sometimes spelled application programming interface) is
the specific method prescribed by a computer operating system or by an application program by which a
programmer writing an application program can make requests of
the operating system or another application.
An API can be contrasted with a graphical user interface or a command interface (both of which are
direct user interfaces) as interfaces to an operating system or a program"
(http://searchwin2000.techtarget.com/sDefinition/0,,sid1_gci213778,00.html)
Another Example would be the definitions of 'Microsoft Middleware' and
'Microsoft Middleware Product'. The Findings of Fact define 'middleware'
to mean application software that itself presents a set of APIs which
allow the users t write new applications without reference to the
underlying operating system. This is close to the true meaning of
middleware and I guess in the context of the Microsoft case, true.
Definition J of the PFJ in no way shape or form comes even close to this
definition. There are many ways that Microsoft could side step this
definition and still continue with its practices. If the DOJ was serious
about improving Microsoft's conduct, it would not allow such a narrow
explication or definition. Defining such a broad term in such a narrow
light is laughable and amounts to a mosquito attacking an elephant. This
should be reworded to more closely follow the Findings of fact or the more
accepted definition:
"In the computer industry, middleware is a general term for any programming

that serves to "glue together" or mediate between two separate and usually already existing programs. A common application of middleware is to allow programs written for access to a particular database to access other databases." (http://searchwebservices.techtarget.com/sDefinition/0,,sid26_gci212571,00.html) The use of such explicit wording of version numbers for 'Microsoft Middleware' should be completely dropped. There is no standard or regulation governing the use of version numbers and creates way to large of a loophole. More acceptable would be the use of time instead of version numbers. For example a period of 3 years is closer to reality instead of 'the next two versions' . What's to prevent them from changing their versioning numbering to sidestep this definition? The use of delivery method should either be dropped or reworded to include all modern methods for delivery of software (for example downloading from the web sites) and other electronic means.

The use of such a restrictive list of 'products' in Definition K of the PFJ is also laughable. Given the above definition of 'Middleware' shouldn't 'Microsoft Middleware Products' be subject to the same definition as the rest of the world and not individually listed. If the DOJ was serous about leveling the playing field, it would apply the same definition to Microsoft's other products, that the rest of the programming world. To use the definition found the Findings of Fact, 'Microsoft Middleware Products' would be anything that they produce that is not the Windows Operating System, Not just the products listed in Definition K.

Thank you for your time and attention in this matter, please feel free to contact me at any time regarding this matter.

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